

The House Committee on Judiciary Non-civil offers the following substitute to HB 392:

A BILL TO BE ENTITLED  
AN ACT

To amend Article 5 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to arraignment and pleas generally, so as to change provisions relating to withdrawal of guilty pleas and acceptance of negotiated plea agreements; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 5 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated, relating to arraignment and pleas generally, is amended by revising Code Section 17-7-93, relating to reading of indictment or accusation, answer of accused, recording of guilty plea, and pronouncement of sentence, as follows:

"17-7-93.

(a) Upon the arraignment of a person accused of committing a crime, the indictment or accusation shall be read to ~~him~~ the accused and he or she shall be required to answer whether he or she is guilty or not guilty of the offense charged, which answer or plea shall be made orally by the accused ~~person~~ or his the accused's counsel.

(b) If the ~~person~~ accused pleads 'guilty,' the plea shall be immediately recorded on the minutes of the court by the clerk, together with the arraignment; and the court shall pronounce the judgment of the law upon the ~~person~~ accused in the same manner as if ~~he~~ the accused had been convicted of the offense by the verdict of a jury. At any time before judgment is pronounced, the accused ~~person~~ may withdraw the plea of 'guilty' and plead 'not guilty'; and the former plea shall not be admissible as evidence against ~~him at his~~ the accused at his or her trial.

(c) If the court intends to reject a negotiated plea agreement in part or in whole, the court shall, prior to the court entering judgment:

(1) Inform the accused and the prosecutor that the:

(A) Court is not bound by the negotiated plea agreement;

27 (B) Court intends to reject or otherwise deviate from the negotiated plea agreement;

28 (C) Disposition of the present case may be less favorable to the accused or to the state

29 than that contemplated by the negotiated plea agreement; and

30 (D) Accused may withdraw his or her guilty plea or the state may withdraw the offers

31 made in the negotiated plea agreement as a matter of right; and

32 (2) Allow an opportunity for the accused and the state to withdraw the offers made in the

33 negotiated plea. If the negotiated plea agreement is not then withdrawn by either party,

34 sentence may be pronounced. If either party withdraws from the negotiated plea

35 agreement after being informed of the trial court's intention to reject the negotiated plea

36 agreement in part or in whole, the case shall immediately be placed upon a trial calendar

37 or rescheduled for such other action as the court deems proper. In the event that a party

38 revokes or withdraws from the negotiated plea agreement pursuant to the provisions of

39 this subsection, the former plea and any evidence discovered solely as a result of

40 negotiated plea discussions related to the former plea shall not be admissible as evidence

41 against the accused at trial.

42 (d) In addition to any other inquiry by the court prior to acceptance of a plea of guilty, the

43 court shall determine whether the ~~defendant~~ accused is freely entering the plea with an

44 understanding that if he or she is not a citizen of the United States, then the plea may have

45 an impact on his or her immigration status. This subsection shall apply with respect to

46 acceptance of any plea of guilty to any state offense in any court of this state or any

47 political subdivision of this state."

## 48 **SECTION 2.**

49 All laws and parts of laws in conflict with this Act are repealed.